

M / 015 / 041

From: Kurt Seel
To: Burns, Joelle
Date: Mon, Jun 26, 2000 4:54 PM
Subject: Diamond K Gypsum Replacement LOC

Joelle,

I have reviewed the above and it looks fine, assuming the sight draft (exhibit A) and the certificate (exhibit B) are those standard exhibits provided by the Division. Exhibit B will need to be modified to have a signature block for BLM. As proposed, the agreement will tie us to BLM, i.e., the Division will only be able to access the money if BLM agrees to sign exhibit B. I don't know how long it takes BLM to act on these things, and whether there would be an occasion when the Division and BLM would fight over the money, so the Division needs to be comfortable with BLM having a claim on, and control over access to, the same moneys.

Also, in the first paragraph I would normally like to see "our" spelled out to be "Zions Bank", and "your" to be either the "beneficiaries" or "State of Utah Division of Oil, gas and Mining." Its not critical in this case because it is unlikely there would be a challenge to the LOC, so I wouldn't bother to revise it. But in general, my normal habit when drafting any contractual agreement is to avoid any misinterpretation by spelling out in excruciating detail the actual name(s) of the parties to the contract whenever they appear. Otherwise there is room for some obnoxious attorney to interpret "you" or "us" or "them" differently, since all the same parties are signing the same contract.

Otherwise, looks great! Let me know if you have any questions.

Kurt